

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

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SCAP 9, LLC,

Plaintiff,

v.

FINANCIAL INDUSTRY REGULATION  
AUTHORITY, INC.,

Defendant.

Case No. 3:22-CV-00380-MMD-CLB

**ORDER RE: CASE MANAGEMENT  
REPORT**

On September 6, 2022, the Court ordered the parties to file a Case Management Report (“CMR”) addressing discovery related issues. (ECF No. 9.) On September 27, 2022, the parties filed their CMR. (ECF No. 15.) In this joint filing, the parties state that they “agree to wait for a ruling on the Motion to Dismiss before engaging in discovery or disclosures required by the Court’s local rules and the Federal Rules of Civil Procedure.” (*Id.*)

As the Court states in its Standing Order, (ECF No. 8), the filing of a motion to dismiss does not stay discovery. Rather, the parties are required to comply with the rules of discovery as required by the Local Rules and the Federal Rules of Civil Procedure. See LR 26-1 *et. seq.*; Fed. R. Civ. Pro. 26 *et. seq.* In short, a party cannot simply refuse to engage in discovery due to the filing of a motion dismiss any more than the parties can simply “agree” to forego the discovery mandated by the District of Nevada’s Local Rules or the Federal Rules of Civil Procedure. A stay of discovery is only imposed if it is ordered the Court.

Generally, if a party believes discovery should be stayed pending a decision on the motion to dismiss, the party is required to file a motion to stay that directly addresses the factors articulated in *Kor Media Group, LLC v. Green*, 294 F.R.D. 579 (D. Nev. 2013) (citing *Tradebay, LLC v. eBay, Inc.*, 278 F.R.D. 597 (D. Nev. 2011)).

1 If, however, the parties mutually agree a stay of discovery should be imposed  
2 while a motion to dismiss is pending, the parties should file a stipulation  
3 requesting the Court order a stay of discovery. Such a stipulation should provide a  
4 detailed explanation for the stay requested and should set forth a deadline for the filing  
5 of a Discovery Plan and Scheduling Order in the event the motion to dismiss is denied.

6 Therefore, the parties are **ORDERED** to file a stipulation accompanied by  
7 a proposed order requesting a stay of discovery within 14 days of the date of this  
8 order which must provide a detailed explanation as to why a stay is proper and  
9 include a deadline for filing a Discovery Plan and Scheduling Order if the motion to  
10 dismiss is denied.

11 **IT IS SO ORDERED.**

12 **DATED:** September 27, 2022.

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16 UNITED STATES MAGISTRATE JUDGE  
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